

IN UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:09-CV-522-F

JOSEPH BERNARD DAVIS,)
)
Plaintiff,)
)
v.)
)
HOUSING AUTHORITY OF THE CITY)
OF RALEIGH, NORTH CAROLINA)
STEVE BEAM, TAYLORIA LEWIS,)
JACQUELINE CHAVIS, and)
MELISSA L. BRIGMAN,)
)
Defendants.)

ORDER

This matter is before the court for consideration of the Memorandum and Recommendation (“M&R”)[DE-23] filed by United States Magistrate Judge Robert B. Jones, Jr., concerning the Defendants’ motion [DE-10] to dismiss the complaint of the *pro se* Plaintiff Joseph Bernard Davis for lack of subject matter jurisdiction pursuant to Rule 12(b)(1), lack of personal jurisdiction pursuant to Rule 12(b)(2), for insufficiency of process pursuant to Rule 12(b)(5) and for failure to state a claim pursuant to Rule 12(b)(6). Therein, Judge Jones recommends that Defendants’ motion to dismiss be allowed for lack of subject matter jurisdiction. Plaintiff timely filed an objection [DE-24] to the M&R.

A district court may “designate a magistrate judge to submit . . . proposed findings of fact and recommendations for the disposition” of a variety of motions. 28 U.S.C. § 636(b)(1)(B). The court then must “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C).

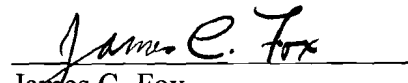
Upon review of the record, “the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*

In the thorough M&R, Judge Jones observes that neither federal question subject matter jurisdiction nor jurisdiction based on diversity of citizenship exist based on the allegations in the Plaintiff’s Complaint. In his Objection to the M&R, Plaintiff offers no argument that alters this analysis, but does opine that the Defendants have used their influence to “get this case dismissed.” Obj. [DE-24] at p. 3. Such a contention is meritless. Moreover, after a full and careful review of the M&R and the record, the court determines that the M&R is in all respects correct and accordance in the law. Plaintiffs have failed to allege any factual basis which would establish subject matter jurisdiction.

Accordingly, the court ADOPTS the recommendation [DE-23] as its own, and Defendants’ motion to dismiss [DE-10] is ALLOWED.

SO ORDERED.

This the 2nd day of March, 2011.


James C. Fox
Senior United States District Judge